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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/091,958 06/07/99 EMBLETON

J 98-392

HM12/0213
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EXAMINER

FAY, Z

ART UNIT

PAPER NUMBER

1614
DATE MAILED:

02/13/01

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/091,958	Applicant(s) Embleton et al.
	Examiner Zohreh Fay	Group Art Unit 1614

Responsive to communication(s) filed on _____.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1, 2, and 4-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1, 2, and 4-20 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 13,14,8

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

Claims 1, 2 and 4-20 are presented for examination.

The amendments and remarks filed on December 7, 2000 have been received and entered.

Claims 1 and 2-22 are rejected under 35 U.S.C. 103 as being unpatentable over Koutby and further over UK Patent Application 2 255 918 for the reasons set forth on page 2 of the office action of May 24, 2000 and the following reasons.

UK Patent Application teaches a device for delivering a fluid drug in a spray of droplets.

The above reference also teaches a jet or stream of droplets.

Applicant's arguments and remarks have been carefully considered, but are not deemed to be persuasive. Applicant alleges criticality to the jet or stream of the droplets used in the instant application. The allegation is not well taken. The newly relied upon reference teaches that the use of jet or stream of droplets of liquid drugs is old and well known. Applicant has presented no evidence to establish the unexpected or unobvious nature of the claimed invention, and as such, claims 1, 2 and 4-20 are properly rejected under 35 U.S.C. 103.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Fay whose telephone number is (703) 308-4604.

ZOHREH FAY
PRIMARY EXAMINER
GROUP 1200

